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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,349	01/05/2004	Kirkland D. Broach	ARF 2004-003	2219

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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 03/08/2007

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 10/751,349	Applicant(s) BROACH ET AL.	
	Examiner Daniel L. Greene Jr.	Art Unit 3694	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 28 November 2006 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.
EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☒ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☒ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and **relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.



Continuation of 10. Other (including any explanation in support of the above items):

Item 2. Example, Claims 1, 2 and 4-17 are rejected, claim 3 is cancelled (and should be indicated as such), Further the appealed claims have not been explicitly identified. Further, the conditions of which claims stand or fall together is also missing.

Item 4. Figure numbers must also be supplied with the reference characters in the Summary. Further a review of the specification by page and line number as set forth by applicant does not appear to support the claimed limitations. For example, page 9 line 1 does NOT define claim 13 having double chamfered inlet 56, the two different hole designs are items 52 and "48", NOT item "54", etc. Applicant is advised to review the specification and accurately indicate support for EACH AND EVERY claim limitation set forth in EACH AND EVERY independent claim as required by current statutes.

Item 4. Further, on pages 3-8 of the Appeal Brief, applicant lists the claims and support in the specification with no reference to figure numbers. Further, the inclusion of all of the claims is NOT considered a "SUMMARY" of claimed subject matter.

Item 4. Further, claims 12 AND 13 are INDEPENDANT claims and as such must have their own respective SEPARATE summaries.


Item 5. The grounds would be better set forth in a manner such as "Whether claims 1, 2 and 4-17 comply with the written requirements...Whether claims 1, 2, and 4-17 comply with the enablement requirement..." or something to this effect. Currently, as listed on page 9 of Applicant's appeal brief, the grounds are merely a repeat of the Status of the claims as listed on page 2 of said brief.

Item 5. The rejection of claims 4, 6 and 13-17 is "substantially" correct as the rejection includes "as applied to claims 1, 2 and 7-12 above." Further, the rejection of claim 5 is "substantially" correct in that the rejection includes "as applied to claims 1, 2, 4 and 6-17 above".

Item 6. Claims 12 and 13 must be argued independently since they are independent claims. Applicant's arguments are labeled 1. A., B., C. and II A. 1-4, B. 1-5, C., D., III, A. 1-3, B., etc. This appears to set forth that Applicant is attempting to organize the arguments in some sort of fashion. It would seem appropriate that the "Grounds of Rejection to be reviewed on Appeal" should also be labeled accordingly, for example, each ground of rejection is labeled the same as the argument in support thereof.

Item 6. The rejection of Section III. (page 28 of Appeal Brief) does NOT appear to be directed to ANY SPECIFIC REJECTION. Accordingly it is unclear exactly what/which rejection Applicant is applying the argument towards. Applicant should apply this specific argument to each section of rejections that it is applicable to.

Applicant is directed to review the CURRENT USPTO practices for Appeal and comply with the new statutes and requirements. If Applicant is of the opinion that the current Appeal Brief is in full compliance with current standards, then evidence in support thereof is required.


ELLA COLBERT
PRIMARY EXAMINER